

deposited will be irrevocably removed upon the granting of a patent.

The copies of the certificates of depositions of the microorganisms are attached herewith together with the translations thereof.

On page 4 of the Action, claim 1-6 were rejected under 35 U.S.C. 102(b) as anticipated by, or under 35 U.S.C. 103(a) as obvious over Cagas et al., and claims 1 and 3-6 were rejected under 35 U.S.C. 102(b) as anticipated by or under 35 U.S.C. 103(a) as obvious over Bacon or Porter et al. or Bacon et al.

In view of the rejections, claim 2 has been cancelled, and the subject matter of cancelled claim 2 has been incorporated into claim 1. Also, new claim 15 has been filed.

In amended claim 1, a symbiotic fungus comprises a filamentous fungus of a biologically pure culture. The filamentous fungus belongs to genus *Neotyphodium* and a final metabolic product thereof is a chanoclavine.

Bacon et al. issued on 1981 relates to *Balansia*, not relating to *Neotyphodium* of the invention. In tables 1 and 2 of Bacon et al., there are fungi wherein chanoclavine is detected; Ergonovine, Agroclavine and Ergonovine are not detected; and chanoclavine is the final product. However, these fungi all belong to *Balansia*, not *Neotyphodium* of the invention. Therefore, Bacon et al. does not disclose or suggest the present invention.

Bacon et al. issued on 1979 relates to *Balansia*, not relating to *Neotyphodium* of the invention. In table 1 of Bacon et al., there are fungi wherein chanoclavine is detected, but Ergonovine, Agroclavine and Ergonovine are not detected. However, these fungi all belong to *Balansia*, not *Neotyphodium* of the invention. Therefore, Bacon et al. does not disclose or suggest the present invention.

Porter et al. is directed to *Epicloe*, not *Neotyphodium*. In Fig. 1, there are spots of Chanoclavine, Ergosine and Ergosinine, similar to Figs. 4 and 5 of the invention. However, these are not the examples of *Neotyphodium*.

Cagas et al. is directed to *Neotyphodium*, as in the invention. However, as shown in tables 1 and 2 in Cagas et al., *Neotyphodium* in Cagas et al. produces Ergovaline and Chanoclavine. Namely,

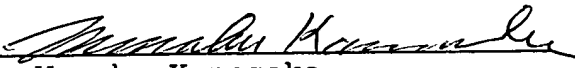
Chanoclavine is not the final metabolic product, as in the invention. Accordingly, although the kind of fungus in Cagas et al. is the same as that of the invention, the final product thereof is different from that of the invention. Therefore, the invention is not disclosed or suggested in Cagas et al.

As explained above, the features of the invention are not disclosed or suggested in the cited references. Even if the cited references are combined, the invention is not obvious from the cited references.

Reconsideration and allowance are earnestly solicited.

Respectfully submitted,

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Abstract of the Disclosure

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A symbiotic fungus is a filamentous fungus of a biologically pure culture. The filamentous fungus belongs to genus Neotyphodium and a final metabolic product thereof is a chanoclavine. Plant with the filamentous fungus introduced therein has resistance to pest and do not show toxicity to livestock.

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1.(amended) A symbiotic fungus comprising a filamentous fungus[, characterized in that] of a biologically pure culture, said filamentous fungus belonging to genus Neotyphodium and a final metabolic product [is] thereof being a chanoclavine.

3.(amended) A symbiotic fungus as defined in Claim 1, wherein the symbiotic fungus is [one, two or more of the fungi] at least one fungus selected from the group consisting of FERMP-17672, FERMP-17673 and FERMP-17674 deposited at the Japanese National Institute of Bioscience and Human Technology [under the number FERMP-17672, FERMP-17673 and FERMP-17674].